

29072. Misbranding of canned peas. U. S. v. 198 Cases and 248 Cases of Peas. Consent decree of condemnation with provision for release under bond for relabeling. (F. & D. Nos. 42080, 42081. Sample Nos. 19280-D, 19401-D.)

This product fell below the standard for canned peas established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On March 29, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 446 cases of canned peas at St. Paul, Minn.; alleging that the article had been shipped in interstate commerce on or about March 12, 1938, by the Oostburg Canning Co., from Oostburg, Wis.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Parade Brand [or "State Fair Brand"] * * * Packed By Oostburg Canning Co. Oostburg, Wisconsin."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature and the package or label did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On May 3, 1938, Midway Jobbing Co., St. Paul, Minn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, with provision for release of the product under bond conditioned that it be relabeled to comply with the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29073. Misbranding of canned tomatoes. U. S. v. 144 Cartons and 95 Cartons of Tomatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 42097, 42098. Sample Nos. 8446-D, 8447-D.)

This product was substandard because it was slack-filled, and it was not labeled to indicate that it was substandard. Moreover, the cans contained less than the amount declared on the label.

On April 8, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 239 cartons of canned tomatoes at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about February 15, 1938, from Centerville, Ind., by the King-McCoy Canning Corporation; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Jane Addams Brand Tomatoes Net Wt. 1 Lb. 3 Oz. [or "Net Wt. 1 Lb. 12 Oz.]" Packed For State Wholesale Grocers, Inc. Chicago, Ill."

It was alleged to be misbranded in that the statements, "Net Wt. 1 Lb. 3 Oz." and "Net Wt. 1 Lb. 12 Oz.," were false and misleading and tended to deceive and mislead the purchaser when applied to articles that were short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the quantities stated were not correct. It was alleged to be misbranded further in that it was canned food and fell below the standard of fill of container promulgated by the Secretary of Agriculture, since it was slack-filled because of excessive headspace, and the packages or labels did not bear a plain and conspicuous statement prescribed by the Secretary indicating that it fell below such standard.

On May 6, 1938, King-McCoy Canning Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled to comply with the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29074. Misbranding of canned peas. U. S. v. 341 Cases of Canned Peas (and 1 similar seizure action). Decrees ordering product released under bond for relabeling. (F. & D. Nos. 41553, 41692. Sample Nos. 1303-D, 1305-D.)

This product fell below the standard established by this Department because the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 28 and February 11, 1938, the United States attorney for the Eastern District of Virginia, acting upon reports by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 876 cases of canned peas at Richmond, Va.; alleging that the article had

been shipped in interstate commerce on or about October 16 and December 15, 1937, from Cambridge, Md., by Phillips Sales Co., Inc.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Choptank Brand Early June Peas * * * Phillips Sales Co., Inc., Cambridge, Md."; or "Phillips Delicious Early June Peas, * * * Phillips Packing Co., Inc., Cambridge, Md."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food, since the peas were not immature and its package or label did not bear a plain and conspicuous statement prescribed by the Secretary of Agriculture indicating that it fell below such standard.

On May 10, 1938, Phillips Sales Co., Inc., having appeared as claimant, decrees were entered ordering the product released under bond with the condition that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29075. Adulteration and misbranding of tomato puree. U. S. v. 47 Cases of Tomato Puree. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 39631. Sample No. 34933-C.)

This product contained a smaller proportion of tomato solids than tomato puree should contain.

On May 20, 1937, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 47 cases of tomato puree at Pensacola, Fla.; alleging that the article had been shipped in interstate commerce on or about June 27, 1936, from New Orleans, La., by Angelo Glorioso; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Eagle Brand Tomato Puree * * * packed by A. Glorioso, New Orleans, La."

It was alleged to be adulterated in that a substance deficient in tomato solids had been substituted for tomato puree, which it purported to be.

The article was alleged to be misbranded in that the statement on the label, "Tomato Puree," was false and misleading and deceived and misled the purchaser, since the article was deficient in tomato solids, and for that reason was not tomato puree.

On June 12, 1937, Angelo Glorioso, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond with the condition that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29076. Adulteration of canned wax beans. U. S. v. 13 Cases, 285 Cases, and 154 Cases of Wax Beans. Default decree of condemnation and destruction. (F. & D. Nos. 41871, 41872, 41873. Sample Nos. 2121-D, 2123-D, 2229-D.)

Examination of this product showed the presence of worms and worm-damaged beans.

On March 3, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 452 cases of canned wax beans at St. Paul, Minn., alleging that the article had been shipped in interstate commerce on or about October 23, 1937, by the Blytheville Canning Co., from Blytheville, Ark.; and charging adulteration in violation of the Food and Drugs Act. A portion was labeled: "Blytheville Brand Cut Wax Beans * * * Blytheville Canning Co. Inc." The remainder was labeled: "Dinner Time Brand * * * Packed for C. A. Pearson, Inc., Twin Cities, Minnesota."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 19, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29077. Misbranding of canned apricots. U. S. v. 149½ Cases of Compote California Apricots, et al. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 42410, 42411. Sample Nos. 17943-D, 17944-D.)

This product fell below the standard established by this Department, and it was not labeled to indicate that it was substandard.

On May 17, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the